

REMARKS:

Pursuant to an Examiner interview on October 10, 2006, the Applicant has amended the claims to distinctively claim the subject matter of the invention. Claims 1-50 are canceled. New claims 51- 70 are added. No new matter has been added. Support for the new claims and the amendment is found within the specification and the drawings. It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Interview Summary:

An Examiner Interview was held on October 10, 2006, wherein the merits of the present amendment and claims were discussed in reference to a proposed amendment submitted to the Examiner in advance of the interview date.

With respect to the proposed independent claims, particularly claim 1 now cancelled, the Examiner noted that the addition of the recited language for adjusting the "size" distinguishes the claimed invention over the cited references. See Examiner comments in Advisory Action dated December 20, 2006. The Examiner advised, however, that an updated search may be necessary.

With respect to now cancelled claim 12, attorney for the Applicant noted that none of the cited references particularly teach the recited relationship $D=A^2/B$. The Examiner contends that the use of letters A, B, C, and D makes claim 12 indefinite or alternatively does not recite an additional limitation, because the Examiner feels that the "letters are "variables" and a variable can be any number."

It is respectfully submitted that while it is true that any "number" may be represented by an alphanumeric letter, in this case the letters A, B, C and D were used to represent definitively recited claim elements. That is, the letters represent the heights and widths of respective elements, where A and B correspond to width and height of the display respectively; and C and D correspond to width and height of the first image. It has been long held that "An applicant is entitled to be his or her own lexicographer." See MPEP 2111.01 (III). Therefore, rejection of the claims on the basis that the Applicant has used a certain term (i.e., a letter of the alphabet) to define the recited elements is improper.

In the newly submitted claims, instead of using the letters A, B, C, and D, the Applicant has recited "the width of the second image is approximately equal to width of the display screen, and the height of the second image is approximately equal to square of the width of the display screen divided by height of the display screen" to claim the same relationship $D=A^2/B$.

“Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim.” Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999). The Applicant has explicitly provided the definition for what is claimed. Therefore, the Examiner cannot simply argue that the recited language is indefinite or that alternatively it provides no additional limitation.

If the Examiner is to reassert a similar rejection to the newly added claims here, the Examiner is requested to provide supportive authority in form of case law or statutory law that sets forth the ground of rejection.

§112 Rejections:

Claims 1, 7-20, 38-43 were rejected under 35 U.S.C. 112, first paragraph. Claims 1, 7-19, 38-39 and 42 were rejected under 35 U.S.C. 112, second paragraph. The Examiner contends that the recited language directed to the first and second images having the same aspect ratio is not supported in the specification.

Claims 1-50 are cancelled and therefore the 112 ground of rejection is now moot. The Applicant respectfully points out, however, that the application and the drawings support the language “wherein the second image has the same aspect ratio as the first image.” The aspect ratio of an image is its displayed width divided by its height (usually expressed as “x:y”) (see www.wikipedia.org).

Referring to FIGS. 3A-3D, the claimed image has the same aspect ratio regardless of degree of rotation or direction of orientation, because height C of the first image (corresponding to width A of the display) corresponds to the width of the second image, and width D of the first image (corresponding to height B of the display) corresponds to the height of the second image, after the image is rotated 90 degrees.

The Applicant respectfully submits that the §112 rejections should be withdrawn and not reasserted against the newly added claims, in light of the amended claims and the provided arguments.

§103 Rejections:

Claims 1, 7-20, 25-36 and 38-50 are rejected under 35 U.S.C. 103(a) over US 6,154,214 (“Uyehara”) in view of US 2003/0044000A1 (“Kfouri”) or in view of the combination of the two

references with US 6,262,769 (“Anderson”) and/or US 6,720,863 (“Hull”). Claims 17-18 and 35-36 were rejected under section 103 as obvious over Uyehara, Kfoury and Hull.

Claims 1-50 are cancelled. As such, the above grounds of rejection are now moot. For the purpose of distinguishing the newly added claims 51-70, in the following, the Applicant has provided a discussion of the cited references and why the cited references are improper for the purpose of rejecting the newly added claims.

Uyehara is directed to an electronic device for displaying “text” of an electronic book. That is, a person can purchase a book in electronic format and read it using the reader device disclosed in Uyehara (See Abstract, col. 1, lns. 15-30).

Referring to col. 5, ln. 65 to col. 6, ln. 36, and Figs. 17 and 18, the Uyehara’s reader has a “touch screen” that allows a user to tap a displayed arrow on the screen to change the orientation of text displayed thereon. As shown and described, the reader is for the purpose of displaying “text.” As such, when the orientation of the text is changed from portrait to landscape, the width-height aspect ratio of the displayed text changes, as a function of a change in the line wrapping.

The Examiner has referred to FIGS. 17 and 18 of Uyehara contending that those two figures show a rotated “image”. It is respectfully noted that rejection of claims using a drawing requires that “the picture must show all the claimed structural features and how they are put together” and “[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art.” M.P.E.P. §2125.

Respectfully, Uyehara not only fails to teach the claimed structural features but also teaches away from the recited invention in claims 51-70 for the following reasons:

1. Uyehara is not directed to viewing “a photographic image” as claimed, but is used for reading “text.”

2. With respect to claim 1, Uyehara fails to teach or suggest “displaying at least first and second icons in a second display area of the display screen, wherein the first and second display areas are non-overlapping and the second display area is positioned between the first display area and at least one

edge of the display screen, and wherein the first and second icons are associated with a function for controlling image display on the hand-held mobile communication terminal.”

3. Uyehara teaches away from the present invention as claimed in independent claims 57 and 64, by suggesting that the rotated text has a different width-height aspect ratio in comparison to the originally displayed text. In contrast, newly added claims recite that “the second image has the same aspect ratio as the first image.”

4. Because Uyehara is only concerned with changing the orientation of the displayed text, it does not suggest adjusting the image size so that it fits in the display. Instead, the text is wrapped in a different format and it is not clear if all or more of the text is displayed after it is rotated. Thus, under Uyehara, the produced result is not a rotated version of the same “photographic image” adjusted in size to fit in the display. Instead, Uyehara teaches displaying the rotated “text” as adjusted with respect to its wrapping. Particularly, Uyehara fails to disclose the recited claim element “displaying a second image in a first display area of the display screen, in response to a user interacting with the mobile communication terminal, wherein the second image comprises a rotated version of the first image relative to the display screen, wherein at least one of a first length and a second length of the second image is adjusted in size so that the second image is displayed in entirety in the first display area of the display screen.”

For the above reasons, Uyehara is patently distinguishable from the claimed invention in new claims 51, 57 and 64. Since Uyehara fails to disclose the recited elements in the newly added claims, citing Uyehara as the primary reference for the purpose of a rejection under § 103 is improper.

The Examiner has cited to FIGS. 1-4 of Kfouri proposing that Kfouri cures Uyehara’s deficiencies in teaching that the “second image has the same width-height aspect ratio as the first image.” Respectfully, Kfouri suffers from the same deficiencies as Uyehara in that Kfouri only suggests displaying “text” and not “photographic images,” as claimed. Kfouri also teaches a rotatable keypad for rotating the display angle of the text; thus teaching away from using keys on the keypad to do the same, as recited in independent claims 57 and 64.

The Applicant has carefully reviewed the cited figures and the related portions of the description in Kfouri. No portion of Kfouri either alone or in combination with Uyehara teaches, suggests or discloses rotating a “photographic image” such that interacting with the mobile terminal causes the first

image to change orientation such that the second image is same as the first image but displayed in a second orientation in relation to the display unit and adjusted in size to fit the display unit.

The Examiner on page 5 of the Office Action contends that it would have been obvious to combine teachings of Uyehara and Kfouri. Beyond making this remark, the Examiner fails to provide any support or reason for the combination. Respectfully, since both Uyehara and Kfouri teach away from the claimed invention by suggesting manipulation of text instead of a photographic image, a person of ordinary skill would not be motivated to combine the two references in the direction of the claimed invention.

Further, the Examiner on page 12 of the Office Action contends that it would be obvious to combine the image rotation method taught by Anderson with teachings of Uyehara and Kfouri to produce the results contemplated by the present invention. This rejection is also respectfully traversed as Anderson also fails to cure the aforementioned deficiencies of Uyehara and Kfouri.

Anderson is directed to a method of rotating an image on a display unit of a “camera.” Since a camera cannot be used to read text data, the teachings of Anderson cannot be directly applied to Uyehara and Kfouri. Thus, there would be no motivation for combination of the three references. Also, Anderson in the Background section expressly provides that the objective of the disclosed “automatic rotation” feature is so that a user would not have to manually interact with the camera to rotate an image in the “review mode.”

Therefore, contrary to the Examiner’s assertion, while it is true that the disclosed camera in Anderson has buttons and keys for controlling the general operation of the camera, none of said keys and buttons can be used to rotate an image in clock-wise and counter-clockwise directions under the control of the user, as claimed. Furthermore, Anderson teaches away from the claimed invention in that the “automatic rotation” feature suggested by Anderson eliminates the process associated with displaying a first image *and* a second image on the display subject to user interaction, wherein the second image is a rotate version of the first image.

In other words, Anderson proposes that the second image (i.e., the rotate image) is the only image that should be displayed, and more particularly that the rotated image is to be displayed automatically and without any user interaction with the camera, or any user control over the direction of rotation. This teaching is explicitly in contradiction to the recited limitation for “interacting with the mobile

communication terminal to affirmatively control at least a first and a second direction of rotation for an image displayed on the display screen” in claim 51. Thus, for these reasons alone, Anderson teaches away from the claim invention and should be withdrawn as an improper reference.

With respect to FIGS. 10A, 10B and 11 and column 8, lines 20-37 of Anderson, arrow 804 displayed on the screen of Anderson’s camera is not associated with “a function for controlling image display on the hand-held mobile communication terminal,” as claimed. Instead, arrow 804 merely indicates to the user that “the *digital camera* [itself rather than the displayed image] can be rotated to view the image in its original portrait form” (emphasis added).

For the above reasons, the Applicant after carefully reviewing the disclosure of Anderson in its entirety respectfully submits that Anderson expressly teaches away from a user manually interacting with the a mobile terminal to change the rotation of a displayed image, as claimed.

Finally, Hull is directed to a mobile telephone with a keypad that can be illuminated in different colors such that each key and color combination represents the identity of a caller and/or the age of a message left by the caller (see Abstract). Hull is unrelated to the claimed elements in the newly added claims 51-70, and is therefore also an improper reference.

Since the above references either all teach away from the claimed invention or are unrelated to the claimed elements, a reasonable person would not be motivated to combine their teachings in the direction of the invention. Prior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining the teachings.” In re Sernaker, 217 USPQ 1, 6 (Fed. Cir. 1983). Further, it is well settled that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

There is no support in the Office Action why it would be obvious to a person of ordinary skill to adopt the image rotation method disclosed in camera of the Anderson with the text reader of Uyehara or the mobile communication device of Kfouri. Particularly, noting the filing dates of the cited references, Uyehara and Kfouri were both filed after Anderson. If incorporation of the rotation method of Anderson into either of the references was obvious to one of ordinary skill, at least one of said references would have suggested it. Since obviousness may not be established by hindsight reconstruction or conjecture,

Applicant invites the Examiner to point out the alleged motivation to combine with specificity, or alternatively provide a reference or affidavit in support thereof pursuant to MPEP §2144.03.¹

Accordingly, it is respectfully submitted that the cited prior art references cannot be combined to teach the claimed invention. Further, even if one is modified in accordance with the teachings of the others, the resultant modification would still fail to teach, suggest, or disclose at least one of the following claimed elements:

- (1) displaying a first image on a display screen of a hand-held mobile communication terminal configured to communicate voice data in a wireless communication network,
- (2) wherein the first image comprises a photographic image;
- (3) displaying a second image in a first display area of the display screen, in response to a user interacting with the mobile communication terminal
- (4) to affirmatively control at least a first and a second direction of rotation for an image displayed on the display screen,
- (5) wherein the second image comprises a rotated version of the first image relative to the display screen,
- (6) wherein at least one of a first length and a second length of the second image is adjusted in size so that the second image is displayed in the first display area of the display screen, and
- (7) displaying at least first and second icons in a second display area of the display screen,
- (8) wherein the first and second display areas are non-overlapping and
- (9) the second display area is positioned between the first display area and at least one edge of the display screen, and
- (10) wherein the first and second icons are associated with a function for controlling image display on the hand-held mobile communication terminal.
- (11) wherein the first image and the second image have approximately same aspect ratio.
- (12) wherein the first length of the second image is approximately equal to a first length of the display screen, and the second length of the second image is approximately equal to square of the first length of the display screen divided by a second length of the display screen.

¹ "The rationale supporting an obviousness rejection may be based on common knowledge in the art or "well-known" prior art . . . If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. When a rejection is based on facts within the personal knowledge of the examiner . . . the facts must be supported, when called for by the applicant, by an affidavit from the examiner."

For the above reasons, the invention as recited in claim 51 is distinguishable from Uyehara, Kfouri and Anderson, either alone or in combination. Independent claims 57 and 64 substantially incorporate the elements of claim 51 and are likewise distinguishable from the cited references.

There is no indication in the Office Action, why the above references can be combined or how such combination is possible, as the disclosed systems in each reference are independently complex and cannot be easily modified to work with each other. Further, even if the disclosed systems can be combined, the resultant combination will not function to accomplish the claimed rotation and resizing operations and renders the disclosed systems inoperable for their intended purpose.

For example, if the *automatic* rotation feature of Anderson is combined with the digital book reader of Uyehara, then the text displayed on the digital reader of Uyehara will necessarily be rotated without user affirmation and in a predetermined direction, without giving a user the option of selecting the direction of rotation or whether or not to rotate the displayed text at all! That is, the user will have no control over the rotation or the direction of rotation. This would be completely contrary to the objectives contemplated by Uyehara.

“In rejecting claims under 35 U.S.C. §103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness. ‘A *prima facie* case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.’ In re Rijkenaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993).

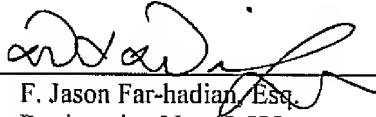
For the above reasons, the invention as recited in independent claims 51, 57 and 64 is distinguishable over the references cited by the Examiner and claims 51, 57 and 64 should be in condition for allowance. Claims 52-56, 58-63 and 65-70 respectively depending from said independent claims should be in condition for allowance by the virtue of their dependence on allowable base claims.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
Lee, Hong, Degerman, Kang & Schmadeka

Date: February 14, 2007

By: 

F. Jason Far-hadian, Esq.
Registration No. 42,523
Attorney for Applicant(s)

Customer # 035884